

1994—Subsec. (a)(2)(A). Pub. L. 103-424, §5(a)(3), in concluding provisions, inserted before semicolon “, and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31”.

Subsec. (a)(2)(A)(x), (xi). Pub. L. 103-424, §5(a)(1), (2), added cls. (x) and (xi) and struck out former cl. (x) which read as follows: “any other significant change in duties or responsibilities which is inconsistent with the employee’s salary or grade level;”.

Subsec. (a)(2)(B). Pub. L. 103-424, §5(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “‘covered position’ means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

“(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.”

Subsec. (a)(2)(C)(i). Pub. L. 103-424, §5(c), inserted before semicolon “, except in the case of an alleged prohibited personnel practice described under subsection (b)(8)”.

Subsec. (a)(2)(C)(ii). Pub. L. 103-359 inserted “the Central Imagery Office,” after “Defense Intelligence Agency,”.

Subsec. (c). Pub. L. 103-424, §5(d), inserted before period at end of first sentence “, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title”.

1993—Subsec. (b)(2). Pub. L. 103-94 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

“(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

“(B) an evaluation of the character, loyalty, or suitability of such individual;”.

1992—Subsec. (b)(8)(B). Pub. L. 102-378 substituted “Special Counsel” for “Special Counsel of the Merit Systems Protection Board”.

1990—Subsec. (a)(2)(C). Pub. L. 101-474 struck out “, the Administrative Office of the United States Courts,” after “means an Executive agency”.

1989—Subsec. (b)(8). Pub. L. 101-12, §4(a), in introductory provision inserted “, or threaten to take or fail to take,” after “fail to” and substituted “because of” for “as a reprisal for”, in subpar. (A) substituted “any disclosure” for “a disclosure”, in subpar. (A)(ii) inserted “gross” before “mismanagement”, in subpar. (B) substituted “any disclosure” for “a disclosure”, and in subpar. (B)(ii) inserted “gross” before “mismanagement”.

Subsec. (b)(9). Pub. L. 101-12, §4(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;”.

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 1122(a)(1) of Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

Section 315(c) of Pub. L. 104-197 provided that: “This section [amending this section and section 3303 of this

title] shall take effect 30 days after the date of the enactment of this Act [Sept. 16, 1996].”

#### EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103-94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103-94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

#### SAVINGS PROVISION

Pub. L. 105-339, §6(d), Oct. 31, 1998, 112 Stat. 3188, provided that: “This section [amending this section and repealing section 1599c of Title 10, Armed Forces] shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act [Oct. 31, 1998].”

### § 2303. Prohibited personnel practices in the Federal Bureau of Investigation

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

(1) a violation of any law, rule, or regulation, or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, “personnel action” means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policymaking, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with applicable provisions of sections 1214 and 1221 of this title.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1117; amended Pub. L. 101-12, §9(a)(1), Apr. 10, 1989, 103 Stat. 34.)

## AMENDMENTS

1989—Subsec. (c). Pub. L. 101-12 substituted “applicable provisions of sections 1214 and 1221” for “the provisions of section 1206”.

## EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

## DELEGATION OF RESPONSIBILITIES CONCERNING FBI EMPLOYEES UNDER THE CIVIL SERVICE REFORM ACT OF 1978

Memorandum of President of the United States, Apr. 14, 1997, 62 F.R. 23123, provided:

Memorandum for the Attorney General

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Attorney General the functions concerning employees of the Federal Bureau of Investigation vested in the President by section 101(a) of the Civil Service Reform Act of 1978 (Public Law 95-454), as amended by the Whistleblower Protection Act of 1989 (Public Law 101-12), and codified at section 2303(c) of title 5, United States Code, and direct the Attorney General to establish appropriate processes within the Department of Justice to carry out these functions. Not later than March 1 of each year, the Attorney General shall provide a report to the President stating the number of allegations of reprisal received during the preceding calendar year, the disposition of each allegation resolved during the preceding calendar year, and the number of unresolved allegations pending as of the end of the calendar year.

All of the functions vested in the President by section 2303(c) of title 5, United States Code, and delegated to the Attorney General, may be redelegated, as appropriate, provided that such functions may not be redelegated to the Federal Bureau of Investigation.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

### § 2304. Responsibility of the Government Accountability Office

If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the Government Accountability Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1118; amended Pub. L. 102-378, §2(6), Oct. 2, 1992, 106 Stat. 1346; Pub. L. 104-66, title II, §2181(e), Dec. 21, 1995, 109 Stat. 732; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

## AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in section catchline and text.

1995—Pub. L. 104-66 struck out subsec. (a) designation before “If requested by” and struck out subsec. (b) which read as follows: “The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

“(1) significant actions taken by the Board to carry out its functions under this title; and

“(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.”

1992—Subsec. (b). Pub. L. 102-378 substituted “The” for “the” at beginning of first sentence.

### § 2305. Coordination with certain other provisions of law

No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), the Act entitled “An Act to provide certain administrative authorities for the National Security Agency, and for other purposes”, approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), and the Act entitled “An Act to amend the Internal Security Act of 1950”, approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831-835).

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1118.)

## REFERENCES IN TEXT

The Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), referred to in text, is act June 20, 1949, ch. 227, 63 Stat. 208, as amended, which is classified generally to section 403a et seq. of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 403a of Title 50 and Tables.

The Act entitled “An Act to provide certain administrative authorities for the National Security Agency, and for other purposes”, approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), referred to in text, is Pub. L. 86-36, May 29, 1959, 73 Stat. 63, as amended, and is set out as a note under section 402 of Title 50. For complete classification of this Act to the Code, see Tables.

The Act entitled “An Act to amend the Internal Security Act of 1950”, approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831-835), referred to in text, is act Sept. 23, 1950, ch. 1024, title III, as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 168, which is classified principally to subchapter III (§831 et seq.) of chapter 23 of Title 50. For complete classification of this Act to the Code, see Tables.

## CHAPTER 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

### SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

Sec.	
2901.	Commission of an officer.
2902.	Commission; where recorded.
2903.	Oath; authority to administer.
2904.	Oath; administered without fees.
2905.	Oath; renewal.
2906.	Oath; custody.

### SUBCHAPTER II—REPORTS

2951.	Reports to the Office of Personnel Management.
2952.	Time of making annual reports.
2953.	Reports to Congress on additional employee requirements.
2954.	Information to committees of Congress on request.

## AMENDMENTS

1978—Pub. L. 95-454, title IX, §906(a)(16), Oct. 13, 1978, 92 Stat. 1226, substituted “Office of Personnel Management” for “Civil Service Commission” in item 2951.